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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,815	06/04/2001	Kazuo Konishi	04329.2576	1967
22852	7590	02/10/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			WILSON, JACQUELINE B	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/871,815	KONISHI ET AL.	
	Examiner	Art Unit	
	Jacqueline Wilson	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 4-16 and 18-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06/04/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Election/Restrictions

1. Applicant's election without traverse of claims 1-4, 11, 12, and 16-19 in the reply filed on 09/23/04 is acknowledged.

However, the examiner has further withdrawn claims 16 for being dependent on non-elected claim 15.

Below are claims that have been withdrawn which reads on non-elected species:

Claim 4 reads on Specie II (fig. 7); Claim 11 and 12 reads on Specie VI (fig. 13); Claim 18 reads on Specie VII (fig. 14); Claim 19 reads on Specie IX (fig. 28).

Claims 1-3 and 17 are analyzed and discussed below. Please see rejection of these claims below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torres et al (US 6,738,075), in view of Vetro et al (US 6,542,546).

Regarding Claim 1, Torres et al teaches a video camera including a solid state image sensor (110; col. 3, lines 51+), and a video encoding section (col. 5, lines 35+) configured to perform compression encoding including intra-frame encoding and inter-frame encoding for a video signal input (col. 3, lines 45-49). Although Torres et al teaches video and still images, Official Notice is taken for the fact that common compression schemes for motion images are inter-frame and still images are intra-frame. Torres et al further teaches a recording section configured to record the video signal compression-encoded by the video encoding section as a video file on a recording medium (referred to as mass storage device; fig. 1, 122), and a control section (referred to as computer 112). Torres et al further teaches audio data is captured using an audio subsystem (142) and transferred to the audio codec (132) for compression (. Although Torres et al teaches that captured images can be sent using e-mail addresses (see fig 4A), and that captured audio signals are compressed in an audio format such as MPEG Audio Layer 3 which is common internet format (col. 5, lines 48+), Torres does not specifically disclose the control section is configured to execute a first motion video shooting and recording mode for obtaining a video file including the compression-encoded video signal to be transmitted in real time to a partner destination via a network, and to control said video encoding section to match a bit rate of an encoded video signal obtained by said video encoding section with a communication speed of the network used to transmit the video file when the first

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motion video shooting and recording mode is selected. However Vetro et al teaches converting real time images from one compression bitrate to another. Vetro et al specifically discloses that in the context of video transmission, compression standards are needed to reduce the amount of bandwidth (available bit rate) that is required by the network (Internet; col. 1, lines 59+). A transcoder (fig. 1, 100) is used to receive the compressed input (101), and encode a new output rate (103) according to desired new output rate (102). Vetro et al states that the output rate is lower than the input rate for the purpose of complying with the network (col. 2, lines 7-15). This reads on the limitation of controlling the video encoding section to match a bit rate of an encoded video signal obtained by the encoding section with a communication speed of the network. One having ordinary skill would recognize that in order to transmit video signals as taught in Torres et, an encoder, such as the transcoder taught in Vetro et al, would be advantageous for the purpose of producing lower bit rates to comply with transmitting signals through a network. Since the image signals in both Torres et al and Vetro et al are motion video, it is obvious that encoding is performed when the first motion video shooting and recording mode is selected. As for the limitation of transmitting in real time, the examiner interprets this as transmitting information at the time of transmission. Since the user indicates transmission from one location to another and sends the data at the time, this is synonymous to transmitting in "real time". Therefore, it would have been obvious to one having ordinary skill in the art to modify Torres et al with Vetro et al to have the control section configured to control the video encoding section to match the bit rate of an encoded video signal with a communication

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speed of the network used to transmit the video file when the first motion video shooting and recording mode is selected.

Regarding Claim 2, Torres et al teaches a speech signal input section configured to input a speech signal (referred to as audio subsystem 142), a speech signal encoding section (audio codec 120) configured to perform compression encoding to the speech signal input from the speech signal input section, a generation section configured to multiplex the speech signal compression-encoded by the speech signal encoding section and the compression-encoded video signal and generate the video file (col. 5, lines 57-61), and the control section (112) controls the speech signal encoding section to match a bit rate of an encoded speech signal with the communication speed of the network used to transmit the video file when the first motion video shooting and recording mode is selected (col. 5, lines 49-53).

Regarding Claim 3, please see discussion of Claim 1 above. Further, Torres et al teaches the control section is configured to execute a second motion video shooting and recording mode for recording an encoded signal having a higher bit rate (MPEG-2 encoding; col. 5, lines 35+) than the first motion video shooting and recording mode.

Claim 17 is analyzed and discussed with respect to Claim 1. The limitation of setting a target bit rate of the encoded signal with respect to the video encoding section in accordance with a selected one of the first and second motion video shooting and recording modes is also obvious since changing from one encoded signal to another conforming to transmitting signal to a network is interpreted as setting the bit rate to the desired transmission rate.

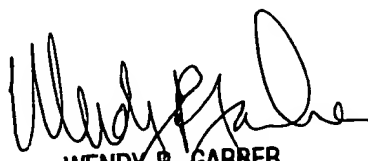
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline Wilson whose telephone number is (703) 308-5080. The examiner can normally be reached on 8:30am-5:00pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JW
02/04/05


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